Fluor Daniel, Inc. *and* International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers, AFL–CIO. Case 26–CA–13842

May 28, 1993

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND RAUDABAUGH

On November 29, 1991, Administrative Law Judge Martin J. Linsky issued the attached decision. The Respondent filed exceptions and a supporting brief, the Charging Party filed a brief in opposition to the Respondent's exceptions, and the Respondent filed a reply brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and, for the reasons set forth below, has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommended Order.[2]

The facts, more fully set forth by the judge, may be summarized briefly as follows. The Respondent entered into a 3-year contract with Big Rivers Electric Company sometime in early 1990[3] to perform service and maintenance work on various power generating facilities operated by Big Rivers. This work was to be done during ''outages,'' i.e., when the plants were shut down. The Respondent worked on six outages between February and June (the ''spring outages'') and on two more in the fall. Sometime during the fall, Big Rivers terminated its contract with the Respondent.

In March, the Respondent received 43 applications for employment, on which the applicants wrote the words ''voluntary union organizer'' or its functional equivalent. All of these applications clearly revealed the applicant's union affiliation. In May, the Respondent received 11 more applications which contained the words ''voluntary union organizer'' or ''Boilermaker union organizer.'' None of these 54 applicants was hired, although the Respondent hired 172 employees for the spring outages and 123 for the fall outages.

The judge concluded, inter alia, that the Respondent had violated Section 8(a)(3) and (1) by discriminatorily refusing to hire any of these 54 applicants. The Respondent excepts to this finding. We agree with the judge that the Respondent violated Section 8(a)(3) and (1). However, contrary to the judge, we find that Edward DeWitt did not submit an adequate application and was not discriminated against in hiring.

In *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982),[4] the Board set forth its test for cases alleging violations of the Act turning on employer motivation. First, the General Counsel must make a prima facie showing sufficient to support the inference that protected conduct was a ''motivating factor'' in the employer's action. The burden then shifts to the employer to demonstrate that the same action would have taken place notwithstanding the protected conduct. It is also well settled, however, that when a respondent's stated motives for its actions are found to be false, the circumstances may warrant an inference that the true motive is an unlawful one that the respondent desires to conceal.[5] The motive may be inferred from the total circumstances proved. Under certain circumstances, the Board will infer animus in the absence of direct evidence.[6] That finding may be based on the Board's review of the record as a whole.[7]

Here, the Respondent clearly had knowledge that all 53 of the alleged discriminatees were union affiliated.[8] All the applications at issue contained the words ''voluntary union organizer'' or its functional equivalent. Not one of these individuals was offered a position with the Respondent. As the judge found, each of the alleged discriminatees had extensive pertinent work experience that was at least equal to those who were hired and who did not indicate on their applications that they were organizers. Only 2 of the 53 applicants, Steven and John Coons, were ever contacted by the

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[2] In addition to the notice posting ordered by the judge, Member Raudabaugh would order the Respondent to post notices at all existing sites at the time of posting. Further, Member Raudabaugh would require that the Respondent mail copies of the notice to the discriminatees and to all employees who worked during the outage at the Big Rivers Wilson plant and to all employees who did similar work at subsequent Big Rivers outages.

Member Oviatt would not require the Respondent to hire unqualified applicants. He would, therefore, order hiring and backpay for discriminatees contingent on their passing the requisite skill test for their particular trade. If the discriminatee passes the test, Member Oviatt would order him hired and would award backpay from the original date. Members Devaney and Raudabaugh find it unnecessary to resolve these issues at this time.

[3] All dates are 1990 unless otherwise indicated.

[4] Approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983).

[5] *Shattuck Denn Mining Corp. v. NLRB*, 362 F.2d 466, 470 (9th Cir. 1960).

[6] *Asociacion Hospital del Maestro*, 291 NLRB 198, 204 (1988); *White-Evans Service Co.*, 285 NLRB 81, 82 (1987).

[7] *ACTIV Industries*, 277 NLRB 356, 374 (1985); *Heath International*, 196 NLRB 318, 319 (1972).

[8] As discussed infra, we have excluded applicant Edward DeWitt.

Respondent, however, and, as discussed infra, these two were not hired for discriminatory reasons.

In agreement with the judge, we also find that as part of his prima facie case, the General Counsel established the Respondent's union animus. In addition to the threats and discrimination against David Bolen in violation of Section 8(a)(1) and Section 8(a)(3), the judge relied for his animus finding on the Respondent's treatment of Steven and John Coons in the testing process. We agree.

Steven and John Coons were the only applicants who had written ''voluntary union organizer'' on their applications who were ever contacted by the Respondent. Both were given a tube-weld test,[9] which they failed. Neither was hired. The judge found that this treatment contrasted sharply with that of applicants whose applications did not contain the words ''voluntary union organizer'' but who were hired. We agree with the judge that this highlighted the Respondent's unlawful course of action.

The Respondent offered no explanation as to why some applicants were allowed to take the easier stick-weld test, why some who flunked the tube-weld test were hired anyway, or why at least one applicant was allowed to retake the tube-weld test after failing it. The Respondent gave no justification for why the Coons brothers were not allowed to either retake the test after failing it or allowed to take the easier stick-weld test. The only discernible difference between these other applicants and the Coons brothers was the appearance of the words ''voluntary union organizer'' on the Coons' applications.

We, like the judge, find that the General Counsel established a prima facie case that the Respondent unlawfully failed to hire those applicants whose applications contained the words ''voluntary union organizer'' or its functional equivalent.

We disagree with the judge, however, that the treatment of applicant Edward L. DeWitt was unlawful. DeWitt's application indicated that he was a ''voluntary union organizer'' and a member of Pipefitters Local 633. It also stated that DeWitt previously had been employed by the Respondent.[10] DeWitt, however, did not receive a mailgram which the Respondent sent to former employees within a 200-mile radius, nor was DeWitt hired even though he had prior Fluor Daniel experience. The judge rejected the Respondent's defense that DeWitt was not hired, in part, because his application was incomplete, citing the application of four other applicants who were hired and submitted similarly incomplete applications. The Respondent excepts. We find merit in the Respondent's exceptions.[11]

First, we note that the mailgrams were sent approximately 11 days before the Respondent reviewed the applications. Thus, we cannot draw an inference that DeWitt was not sent a mailgram because of his union sentiments expressed on the application. Further, we find that the judge erred in comparing DeWitt's application to those of Christian Volz, Clayton Rogers, George Anderson, and Wayne Eckles. Each of these four men had worked for the Respondent on a previous Big Rivers project, and the Respondent already had their complete applications on file. We also agree with the Respondent that DeWitt's application was insufficient. Specifically, in the section requesting information on previous employment, DeWitt added only the words ''If [r]equested [w]ill [s]end [r]esume.'' Therefore, we find the judge improperly relied on the Respondent's treatment of DeWitt to infer animus, and we find that the evidence is insufficient to show that the Respondent violated Section 8(a)(3) and (1) by refusing to hire DeWitt. We will accordingly delete his name from the Order.

We have examined the Respondent's rebuttal case and find that the defenses it proffers for its failure to hire the applicants involved here do not establish that the same conduct would have taken place in the absence of the discriminatory motive.

The Respondent raises several defenses. First, it argues that it did not consider the 11 Boilermaker applications it received in May because they were received in bulk. The Respondent alleges that it has a policy against accepting such applications, although we note that the applications were retained in the Respondent's files. We reject this defense. As the judge found, the Respondent's policy is not applied without exception. The record reveals that the Respondent considered applications filed in bulk by the Kentucky Employment Service.

The Respondent also defends on the basis of certain language printed on its applications. The Respondent's applications state that the applications are valid for 60 days from the application date. Therefore, the Respondent claims that the applications of the alleged discriminatees submitted in March and May would not have been valid for the fall outages which began in September. We reject this defense as well. There is evidence that, at a minimum, some applicants for the fall outages were contacted about employment opportunities based on applications they filed in the spring.[12] We also rely, as did the judge, on the Respondent's staffing memo that indicated that applications received

[9] A welder can be given either a stick-weld test or a tube-weld test. It is undisputed that the tube-weld test is more difficult to pass.

[10] The Respondent maintains a hiring policy that gives preference to former employees. The General Counsel did not challenge the legality of this system.

[11] The Respondent filed a motion to supplement the record to introduce the resume of Clayton M. Rogers. We grant the motion.

[12] We correct the judge who found that these applicants were hired in the fall based on their spring applications.

for the outage in April were to be kept in a file for future staffing requirements.

We find, as a whole, that the evidence supports an inference that the Respondent discriminatorily refused to hire the 53 applicants. The Respondent offered no credible reasons to explain why none of these 53 was hired. Although many of the applicants who were offered employment displayed some link to a union, we agree with the judge that there is a significant difference between an applicant for employment who puts on his application that he has worked in the past for a union contractor and one who states clearly that he is a ''voluntary union organizer.'' The latter applicant explicitly places the employer on notice that he will try to exercise his statutorily protected right to organize his fellow employees. We find it reasonable to infer that it was not just coincidental that not a single one of the applicants who proclaimed himself to be a ''voluntary union organizer'' was employed and only two were ever contacted.

We find that the Respondent's stated motives for rejecting these applicants were false and that the Respondent's true motive was to discriminate against these applicants because of their union affiliation.[13] Accordingly, we conclude that the General Counsel made a prima facie showing of unlawful motivation on the part of the Respondent for its refusal to hire any of these 53 applicants, as required under *Wright Line*. We further conclude that the Respondent's proffered justifications were pretextual and find that the Respondent failed to meet its *Wright Line* burden of demonstrating that it would have taken the same action in the absence of the union affiliation of these 53 applicants.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Fluor Daniel, Inc., Greenville, South Carolina, its officers, agents, successors, and assigns, shall take the action set forth in the Order, except that Edward L. DeWitt shall be deleted from paragraph 2(a) of the Order.

[13] The judge discredited the testimony of timekeeper and office manager Ron Russell that at one point during the spring outages he contacted all the applicants in the boilermaker and pipewelder files, including those with the words ''voluntary union organizer.'' This false claim lends support to our finding that the Respondent's motive was unlawful. *Shattuck Denn Mining Corp.*, supra.

William D. Levy, Esq., for the General Counsel.
Melvin Hutson and *Alfred Robinson, Esqs.*, of Greenville, South Carolina, for the Respondent.
Michael J. Stapp and *Michael T. Manley, Esqs.*, of Kansas City, Kansas, for the Charging Party.

DECISION

STATEMENT OF THE CASE

MARTIN J. LINSKY, Administrative Law Judge. On May 4 and 29, 1990, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL–CIO (the Charging Party or Boilermakers) filed a charge and a first amended charge against Fluor Daniel, Inc. (Respondent).

Thereafter, on February 6, 1991, the National Labor Relations Board, by the Regional Director for Region 26, issued a complaint, which, as amended at the hearing, alleges that Respondent violated Section 8(a)(1) and (3) of the National Labor Relations Act (the Act) when it threatened an employee with discipline and discharge if the employee refused to cross a picket line, when it subsequently discharged the employee because he refused to cross a picket line, and when it failed and refused to hire 54 applicants for employment because of their support and assistance to various unions and because they engaged in protected concerted activity.

Respondent filed an answer in which it denies it violated the Act in any way.

It is my conclusion as set forth more fully below that the General Counsel, with the assistance of the Charging Party, has proven by at least a preponderance of the evidence that Respondent violated the Act as alleged in the complaint, as amended.

Hearings were held before me in Owensboro, Kentucky, on 12 days in May and June 1991, i.e., May 6–10, and June 10–14, 24, and 25, 1991.

On consideration of the entire record, including posthearing briefs and other pleadings submitted by the General Counsel, Respondent, and the Charging Party, and on my observation of the demeanor of the witnesses, I make the following

FINDINGS OF FACT

I. JURISDICTION

At all times material, Respondent, a corporation with an office and place of business in Greenville, South Carolina, as well as various jobsites in other States of the United States, including jobsites at Sebree, Hawesville, and Centertown, Kentucky, has been engaged in business as a general contractor in the construction industry.

During the past 12-month period ending April 30, 1990, Respondent, in the course and conduct of its business operations described above, purchased and received at Respondent's jobsites in the State of Kentucky products, goods, and materials valued in excess of $50,000 directly from points outside the State of Kentucky.

Respondent admits, and I find, that it is now and has been at all times material, an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

The Boilermakers Union (Charging Party) is now, and has been at all times material, a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Overview*

Respondent is a California corporation engaged in the engineering, construction, and maintenance business throughout the United States. It is an ''open shop contractor.''

In 1990 Respondent entered into a 3-year contract with Big Rivers Electric Company to do service and maintenance work on various power generating facilities operated by Big Rivers. The service and maintenance work would be done during what the parties to this litigation referred to as ''outages.'' An ''outage'' refers to the complete shutting down of a power generating facility so that the service and maintenance work can be done. It is generally done in the spring and fall of the year when the need for power is somewhat less.

Big Rivers had power generating facilities in and around Sebree, Hawesville, and Centertown, Kentucky. The facilities located near Sebree were known as the Henderson and Green power plants. The facility near Hawesville was known as the Coleman power plant. The facility in Centertown was known as the Wilson facility. A facility might have more than one power plant, e.g., Coleman had three and the work was referred to as Coleman I, II, and III. The number reflecting not the first or second outage but the number of the plant.

In the spring of 1990, Respondent worked on six separate outages between February and June 1990. They were as follows:

Plant	*Location*	*Dates*
Henderson	Sebree	2/22–3/10
Coleman I	Hawesville	3/11–3/31
Wilson	Centertown	4/09–4/21
Green II	Sebree	4/23–5/19
Coleman III	Hawesville	5/20–6/02
Coleman II	Hawesville	6/02–6/30

In the fall of 1990, Respondent worked on two outages. They were as follows:

Plant	*Location*	*Dates*
Green II	Sebree	3 weeks in 9/90
Wilson	Centertown	6 weeks in 10–11/90

In the fall of 1990, Big Rivers terminated its contract with Respondent after less than 1 year allegedly because of poor job performance by Respondent.

It is alleged that Respondent violated the Act when it threatened with discipline and discharge employee David Scott Bolen if he refused to cross a picket line and that Respondent further violated the Act when it did in fact discharge Bolen.

It is further alleged and this is the more complex part of the case that Respondent failed and refused to hire 54 applicants for employment because of their union activity. In each case the employees, who were members of various locals of the Boilermakers, Ironworkers, Pipefitters, and Laborers Union all had the words ''voluntary union organizer'' or similar words on their applications for employment. None of them were hired.

I will address the two parts of this case separately.

B. *Threat to Discipline and Discharge an Employee if he Refuses to Cross a Picket Line and the Discharge of David Scott Bolen*

Respondent performed maintenance work at the outages at the Henderson plant in Sebree, Kentucky, and on the Coleman I facility in Hawesville. Respondent then moved on to the outage at the Wilson plant in Centertown, Kentucky. Work at this outage began on April 9, 1990. One of the employees hired for the Wilson outage was David Scott Bolen.

Bolen began work on April 10, 1990. A few days later a picket line went up at the Centertown, Kentucky jobsite. It was prearranged by Respondent that if a picket line went up the employees and the supervisors would meet at a nearby IGA grocery store and figure out what to do. At the IGA grocery store, Bolen asked Robert Wollard, whose last name he could not remember, what would happen if an employee refused to cross the picket line and go to work. According to Bolen, who impressed me by his demeanor as a credible witness, Wollard said, ''Well the first time we give you an excused absence, the second time will be a written warning and the third time, we will terminate you.''

Wollard testified that when he was asked the question by Bolen he replied merely that the employee would have to follow his heart and that corporate policy would control. When asked what corporate policy was, Wollard claims he said he would have to find out what that policy was because he didn't know what it was. He claims he later found out that corporate policy was that no employee would be disciplined for refusing to cross a picket line.

I credit Bolen's version of what Wollard said over Wollard's version. Wollard admitted that when the picket line went up, the employees and supervision, by prearranged agreement, met at the nearby IGA store. It is more plausible since Wollard was one of the top supervisors at the site—and since picketing was expected—that he would know what the policy was at this site if the employees refused to cross the picket line. Therefore, I believe he said what Bolen testified he said and not what he claims he said. In other words, Wollard said what the policy was or what he thought it was and he did not say that Respondent would follow corporate policy and, by the way, I don't know what the policy is. In addition, Bolen was subsequently discharged pursuant to the same policy Wollard expressed to him at the IGA store, i.e., he was discharged after the third day that he refused to cross the picket line.

The law is clear. The right to honor a picket line is protected by the Act. A threat to discipline or discharge an employee for refusing to cross a picket line violates the Act. See *Newberry Energy Corp*., 227 NLRB 436 (1967); *Torrington Construction Co*., 235 NLRB 1540 (1978); *Western Stress*, 290 NLRB 678 (1988). Accordingly, Respondent violated Section 8(a)(1) of the Act when it threatened David Scott Bolen with discipline and discharge if he refused to cross the picket line at the Wilson outage in Centertown, Kentucky. Later, Bolen called Job Superintendent Andy Warner at the Wilson outage and said he (Bolen) wouldn't cross

the picket line but if the picket line went down call him and he will return to work. Warner said okay but never called Bolen. Sometime later the outage at the Wilson plant in Centertown was completed and Respondent moved on to the outage at the Green II facility in Sebree, Kentucky. On April 28, 1990, Bolen called Superintendent Warner at the jobsite in Sebree and asked if there were any openings. Warner said yes and Bolen reported to work in Sebree that very day and worked the night shift.

The very next day a picket line went up at the Sebree jobsite. Bolen called Warner and told him that just as at Centertown he would not cross the picket line but he wanted Warner to call him if the picket line went down. Warner said he would. However, Warner never called Bolen back to work.

On May 3, 1990, Bolen was effectively discharged, i.e., although the picket line eventually came down neither Warner nor anyone else associated with Respondent called Bolen and told him to return to work. A termination slip was prepared which stated that Bolen had voluntarily quit Respondent's employ, but Bolen was never given this slip. Warner claims that Bolen called him only once and he doesn't remember if it was at Centertown or Sebree—whereas Bolen testified he called Warner a number of times both at Centertown and Sebree. I credit Bolen who impressed me as an honest man. According to Warner, Bolen said in their conversation that he wouldn't work because of the picket line and wasn't coming back. Again, I credit Bolen. It is more reasonable to believe that an individual who wanted to work but felt obliged to honor a picket line would tell the boss that he could not cross the picket line but if the picket line was withdrawn or came down that he needed the work and would work.

Accordingly, I find that Respondent violated Section 8(a)(1) and (3) of the Act when it discharged Bolen in May 1990. See *Newberry Energy Corp*., supra; *Torrington Construction Co*., supra; and *Western Stress*, supra.

Interestingly enough it was Warner who told timekeeper Ron Russell to note on the termination slip that Bolen was a ''voluntary quit'' after 3 days absence at Sebree because of the picket line. This is, as a practical matter, the functional equivalent of discharge, which is what Wollard told Bolen would happen when the two men spoke outside the IGA grocery store near Centertown back in April 1990 if Bolen missed 3 days of work because of his refusal to cross a picket line.

C. *Failure and Refusal to Hire 54 Applicants for Employment Because of Their Union Activity*

It is alleged that Respondent violated Section 8(a)(1) and (3) of the Act when it failed and refused to hire 43 employees who applied for work in March 1990. It is further alleged that Respondent, since May 1990, failed and refused to hire 11 additional applicants for employment. All 54 of the applicants for employment had the words ''voluntary union organizer'' or its functional equivalent written on their applications for employment. None of the 54 were hired either for the spring outages or the fall outages. I note at this point that the employees hired for the fall outages were hired from the list of employees who worked during the spring outages.

As noted above Respondent had a 3-year contract with Big Rivers which ran from early 1990 to early 1993. It was terminated in the fall of 1990 by Big Rivers for what Big Rivers considered poor work performance by Respondent.

Respondent began work on the outages at the Henderson plant in Sebree and the Coleman I plant in Hawesville. The next outage was at the Wilson plant in Centertown. This was a bigger job than the prior two jobs and Respondent needed to solicit individuals interested in employment with Respondent. Accordingly, Respondent caused the following ad to be placed in newspapers in the cities of Bowling Green, Lexington, Owensboro, and Paducah, Kentucky, Evansville, Indiana, and Clarksville, Tennessee:

SHUT DOWN OPPORTUNITIES

Fluor Daniel Inc. has employment opportunities for the following individuals on upcoming shut downs in the Owensboro area.

*Boilermakers	*Pipefitters
*Structural Ironworkers	*Ironworker Welders
*Boiler Tube Welders	*Pipe Welders
*Carpenters	

Only individuals with experience on power plant or heavy industrial projects need apply. Applications will be accepted Monday thru Friday from 8 a.m. to 3 p.m. at the Kentucky Employment Service Office located at 311 W. 2nd St., Owensboro, KY. Deadline for applications is March 23rd. After March 23rd contact:

FLUOR DANIEL, INC.
1–804–222–7117
EOE

In addition, Respondent sent the following letter to Ron Russell, field office manager, Kentucky Employment Service, in Owensboro, Kentucky:

Dear Mr. Russell:

Fluor Daniel is an open shop contractor and employs individuals on the basis of their skills and qualifications rather than upon membership in a labor organization. Fluor Daniel has no national or local agreements with the building trades union.

We are presently seeking individuals with heavy industrial or power plant experience in the crafts listed below.

Boilermaker	Pipefitter
Structural Ironworker	Ironworker Welder
Boiler Tube Welder	Pipe Welder
Carpenter	

Helpers with at least 42 months or more experience as a craft helper will also be considered. The top pay rate for these crafts is $13.50 per hour. I have attached a descriptive of some typical duties of each craft for your reference.

The enclosed applications must be fully completed in order for individuals to be considered for April 1, 1990 employment at the Wilson Power Station in Centertown, Kentucky. We are scheduled to work two eight hour shifts, five days per week, for approximately

two weeks. Individuals must be willing to work night shift and any required overtime.

Applications have also been sent to your counterparts in Paduach, Bowling Green, Henderson, Lexington, and Hopkinsville. Completed applications will be forwarded to your office.

My plans are to be Owensboro March 26 to review applications and schedule interviews. I appreciate your assistance and look forward to working with your office.

Please call me if you have any questions.

Sincerely

James A. Boyd
Manager Human Resources

The letter was dated March 14, 1990. The ad ran in the newspaper on March 18, 1990.

Forty-three applications were caused to be sent to the Owensboro job service. One of Respondent's human resources managers, Jim Boyd, was responsible for processing the bulk applications at the Owensboro job service. The Owensboro office of the Kentucky Employment Service was referred to by the parties in this litigation as the Kentucky or Owensboro job service.

Forty-three of the 54 alleged discriminatees caused their applications to be filed with the Kentucky job service. Boyd broke applications down and placed them in various files based on the applicants job qualifications. The following 19 applications were placed by Boyd in a ''pipefitter'' file:

Jeffrey Campbell	Patrick R. O'Bryan
Ernest Carter, Jr.	George T. Saltsman
Donald S. Cole	Anthony O. Taylor
Wallace H. Cook, Jr.	James L. Trainer
Bobby D. Crabtree	Thomas G. Turner
Hubert L. Crabtree	Mark G. Wagner
Edward L. DeWitt	Richard A. Wall
George E. Hayes	Charles H. Yeiser
Jerry L. Hurm	John C. Zaremba
Joseph B. Hobbs	

All the above applicants had the words ''voluntary union organizer'' on their applications except Hubert L. Crabtree whose application contained the words ''union organization-voluntary.'' All the applications except that of George Saltsman reflected membership in Pipefitters Local 633. All applications were filled out completely except those of Edward DeWitt and George Saltsman.

DeWitt, however, was a former employee of Respondent and he will be discussed further on in this decision. All the applications except DeWitt's and Saltsman's reflect work experience at least equal to those hired over them.

The following four applications were placed in a ''boilermaker'' file:

James Cauley
John H. Coons
Steven S. Coons
G. Dennis Kulmer

All four men had extensive work experience which was at least the equal of those hired. Three of the four indicated on their applications membership in Boilermaker Local 40 and the fourth, James Cauley, indicated on his application that he was a member of the Boilermakers International Union. All four had the words ''voluntary union organizer'' on their applications.

The following two applications were placed in a ''boilermaker pipe welder'' file:

Ernest T. Coons
James D. Pierce

Both of these men had extensive work experience at least the equal of those hired over them. Both men stated on their applications that they were members of Boilermakers Local 40 and that they were ''voluntary union organizers.''

The following three applications were placed in a ''pipefitter welder'' file:[1]

Russell W. Bell
James G. Phillips
Roger D. Sims

All three men had the words ''voluntary union organizer'' on their applications. All three had extensive work experience. Bell and Sims' applications reflected membership in Pipefitter Local 633 and Phillips' application listed Pipefitters Local 633 Business Agent Norman Cole as a personal reference and his work experience showed over 7 years of experience with TVA, a well-known union employer.

The following 12 applications were placed in an ''Ironworkers'' file:

Ralph Angel	Larry Elliott
Herschel L. Bowlds, Jr.	Mark A. Farmer
Richard B. Bowlds	James C. Gentry
Willis G. Beasley	Ronald K. Gower
Ricky Brown	Donald L. Hurst
Willis C. Dean, Jr.	Gregory Parks

All of these applicants had the words ''voluntary union organizer'' or ''voluntary organizer'' on their applications except Richard B. Bowlds. Bowlds did have on his application that he had journeyman ironworker training and he listed Iron Workers Local 103 Business Agent William Curtis and Assistant Business Agent Bill Garrett as personal references. All these men had extensive work experience.

The following 3 applications were in a ''laborers'' file:

Thomas R. Ball
Ronnie E. Burk, Sr.
James M. Jones

All three of these applications contained the words ''voluntary union organizer—Laborers' Local 1392.'' All three had experience. Although Respondent did not advertise for laborers in the paper or in the letter to the Kentucky job service, Respondent did hire laborers for the spring and fall outages.

In light of the Board's recent decisions in *Fluor Daniel, Inc*., 304 NLRB 970 (1991), and *Wilmar Electric Service*, 303 NLRB 245 (1991), it is clear that the mere fact that

[1] Originally Norman R. Cole, the full-time paid business agent for Pipefitters Local 633, was alleged as a discriminatee. The General Counsel moved to delete him as an alleged discriminatee. I granted the motion.

these applicants made known to Respondent that they were voluntary union organizers does not mean that they were not bona fide applicants for employment. In addition, of course, applicants for employment have the protection of the Act and may not be discriminated in employment on the basis of union activity any more than employees who are already on the payroll. See *Phelps Dodge Corp. v. NLRB*, 313 U.S. 177 (1941), *Stop-N-Go Foods*, 279 NLRB 777 (1986).

None of these 43 alleged discriminatees were hired.

Respondent claims that in hiring employees it gives priority in hiring to persons who have previously been employed by Respondent. This is not alleged to be nor is it an unfair labor practice.

In addition, Respondent hired a number of employees for the Wilson outage in Centertown whose applications reflected some connection with organized labor, e.g., training through union apprenticeship programs and/or employment with known union contractors. However, none of the applicants whose applications contained the words ''voluntary union organizer'' or its functional equivalent were hired.

Jim Boyd testified that when he arrived in Owensboro on March 26, 1990, and received the applications for employment, he only needed to fill approximately 16 positions, i.e, he needed 6 carpenters, 2 pipe welders, and 8 boilermakers. He had previously extended offers of employment to more than 100 former employees of Respondent who had been solicited through a mailgram which Respondent had sent to former employees of Respondent living within 200 miles of Henderson, Kentucky. The offers of employment were for employees to begin work at the Wilson outage in Centertown on April 2, 1990. There was a delay in beginning work at the Wilson plant and work did not begin until April 9, 1990. As a result of the delay a number of persons who indicated interest in working at the Wilson outage and who had been offered jobs went elsewhere. Hence, Respondent needed to hire more employees, in particular tube welders.

An analysis of Respondent's Exhibit 22 reveals that some 172 different employees worked on the spring outages. Many of these were laid off when work was completed at one outage and were recalled to work at a subsequent outage. As noted above these were six spring outages. Respondent's Exhibit 22 reflects that approximately 79 employees when first hired by Respondent for the Big Rivers Project had previously been employed by Respondent. Approximately 32 additional employees had some indication of union background when hired. Usually this consisted of having previously been employed by well-known union contractor and occasionally union connection was indicated by the employee's completion of a union-run apprenticeship program. Approximately 13 employees had both prior experience working with Respondent as well as some union connection. However, approximately 52 employees hired by Respondent had never worked for Respondent and had no indication of union connection. Of course, not one single employee who had the words ''voluntary union organizer'' or its functional equivalent on their application was hired.

Respondent claims that it did not discriminate against this group of applicants. However, massive amounts of union animus in the record reflects to the contrary. The evidence of animus is so strong and so pervasive that I cannot except the statements of Respondent's agents that Respondent did not discriminate against the applicants who had the words ''voluntary union organizer'' or its functional equivalent of their applications.[2]

As noted above in section III,B a picket line went up in May 1990 at the Green II outage in Sebree, Kentucky. Ron Russell, a timekeeper and office manager for Respondent, visited some of the picketers on the picket line and asked why they were picketing. The picketers told Russell because they were looking for work. Russell said that Respondent needed tube welders and caused applications to be distributed to the men on the picket line telling them to apply for a job. Russell never returned to the area to pick up the applications.

Boilermakers Organizer Barry Edwards was present on the picket line when Ron Russell caused applications to be distributed. Edwards caused 11 applications to be completed and mailed to Respondent by certified mail. The applications were those of 11 boilermakers who do the kind of work that Russell told the picketing individuals that Respondent needed.

The 11 applications were those of:

Thomas Armstrong	David K. James
Jimmy D. Blandford	Brett A. Maupin
Steve Boggess	Todd Robinson
Martin W. Drake	Jeffrey Everly
Russell Gregory	Michael Hardin
Frank Trovato	

All 11 of these applicants had the words ''voluntary union organizer'' on their applications except David K. James whose application stated ''Boilermaker union organizer.'' All but James indicated membership in Boilermakers Local 40 and James listed Boilermakers Local 40's business agent, Jim Parrish, as a personal reference. These 11 applications were received by Respondent and even though solicited by Respondent's agent, Ron Russell, these applications were not even considered because Respondent claims they were ''bulk applications'' and Respondent's practice is not to accept bulk applications. But as the record reflects Respondent considers bulk applications when it wants to do so and doesn't when, for one reason or another, it doesn't want to do so. An examination of the 11 applications reveals that all 11 applicants had a good deal of work experience.

I note that there is not one shred of evidence that the employees whose applications have the words ''voluntary union organizer'' or its functional equivalent on them were anything other than bona fide applicants for employment. Iron Workers Local 103 Business Agent William Curtis credibly and without contradiction testified that 200 of his 800 person local membership was out of work in the spring of 1990. In addition Laborers Local 1392 Business Agent Robert Johnson testified credibly and without contradiction that 200 of his 500 local membership was also out of work in the spring of 1990.

In addition there was credible testimony that since Respondent had a 3-year contract with Big Rivers that union employees working far from home would give serious consideration to taking a job with a lot of of work at less than

[2] In finding union animus in this case, I do not need to rely on the animus found in the recent case involving this same Respondent where Respondent unlawfully discriminated against 48 applicants for employment. See *Fluor Daniel, Inc*., supra. Although, of course, I could so rely. *Ducane Heating Corp*., 273 NLRB 1389, 1400 (1985).

top union pay in order to work closer to home and also to help organize this large open-shop contractor. I refer specifically to the testimony of Roger Sims and Patrick O'Bryan.

It goes without saying that if a respondent discriminates against an employee because of that employee's activity on behalf of the union that Section 8(a)(1) and (3) of the Act has been violated even if other employees who participate in union or other protected concerted activity are not the victims of similar discrimination. See *KRI Constructors*, 290 NLRB 802 (1988); *Alexander's Restaurant & Lounge*, 228 NLRB 165 (1977).

In the instant case a number of employees (approximately 32) were hired for the spring outages by Respondent even though their applications revealed some connection to organized labor, which was usually that they had worked for a known union contractor. See Respondent's Exhibit 22. There is a difference, however, between an applicant for employment who has worked in the past for a union contractor and an applicant for employment who states on his application that he is a voluntary union organizer. The latter employee is putting the employer on notice that he will try to exercise his federally protected right to organize his fellow employees. Respondent is an open-shop contractor and wants to stay that way. This is not illegal. Based on strong evidence of union animus, however, which is discussed below, it is my conclusion that Respondent discriminated against the applicants for employment whose applications reflected that they intended to organize Respondent's employees.

The employees hired for the fall outages were for the most part veterans of the spring outages. Respondent conceded that it hired employees for the fall outages who were veterans of the spring outage. None of the 54 alleged discriminatees referred to above, i.e., the 43 whose applications were turned into the Kentucky job service in Owensboro in late March 1990 or the 11 whose applications were mailed to Respondent and received on May 18, 1990, were offered employment during the fall outages.

Respondent's Exhibit 23 is a list of the employees hired for the fall outages just like Respondent's Exhibit 22 is a list of employees hired for the spring outages. Respondent's Exhibit 23 reflects that some 123 employees were hired for the fall outages. Thirty-five were former employees of Respondent; 18 had some connection with organized labor—usually it was the fact that some time in the past they worked for a union contractor; 18 had both worked for Respondent in the past and had worked in the past for a union contractor; 52 of the employees hired for the fall outage had neither worked for Respondent in the past nor did they have any union connection.

Interestingly enough, 52 of the employees hired for the spring outages out of 172 and 52 of the employees out of the 123 hired for the fall outages had neither worked for Respondent in the past nor did they have any connection to organized labor. Yet not one single employee out of the 54 that had the words ''voluntary union organizer'' on their application was hired. It is clear that the General Counsel made out a prima facie case under *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1981). Further, considering the union animus in this case, it is clear that the General Counsel proved its case. Respondent unlawfully refused to hire and did so to discourage union membership among its employees. See *Radio Officers v. NLRB*, 347 U.S. 17 (1954).

D. *Union Animus*

As noted above there is strong evidence of union animus in this case. It is clear Respondent did not want to have a unionized work force. Fluor Daniel is wholly owned by Fluor Corporation. Fluor Constructors, a unionized company, is also wholly owned by Fluor Corporation. Yet, only former employees of Fluor Daniel and not former employees of Fluor Constructors are given a preference in hiring. I find evidence of animus from the following: (1) Not one single applicant whose application bore the words ''voluntary union organizer'' was hired and their qualifications and job experience were at least the equal of those hired; (2) the treatment of John and Steve Coons; (3) the treatment of David Scott Bolen; (4) the treatment of Edward DeWitt; and (5) the cavalier manner in which Respondent handled the applications of 11 boilermakers it received in mid-May 1990.

Only 2 of the 54 applicants who wrote ''voluntary union organizer ''on their applications were ever even called by Respondent.[3] They were Steve and John Coons, who are brothers. They are also members of Boilermakers Local 40, and their applications reflected as much.

The Coons brothers showed up at the Wilson outage in Centertown, Kentucky, on April 9, 1990, after one of them was called by Supervisor Jan Linscome and Linscome said both he and his brother could test for a position. They were to be tested to see if they were qualified to be hired. There are two tests that a welder can be given, i.e., a plate or stick weld test and a tube weld test. All sides concede that a tube weld test is the more difficult test. The Coons brothers took the tube weld test and although they thought they passed the test they were told they had not passed. Both brothers credibly testified that both before and after taking the tube weld test for Respondent that they have taken and passed other tube weld tests although both concede they have failed the test on occasion. The Coons brothers found out they flunked the test when they called Respondent to get the results, although Respondent had told them that it would call them. They were told they flunked the test and would not be hired. The Coons brothers were not offered the opportunity to take a second tube weld test nor were they given the opportunity to take the easier stick or plate weld test. This contrasts sharply with the way in which other applicants whose applications did not contain the words ''voluntary union organizer'' were treated. For example, David Scott Bolen told the test givers that he didn't think he could pass the tube weld test so they let him take the easier plate weld test which he passed and he was hired. Troy and James Hilburn, two brothers, took the tube weld test like the Coons brothers and both flunked the test but were hired anyway. Indeed, Troy Hilburn was fired for cause during the spring out-

[3] Ron Russell testified that at one point during the spring outages when Respondent needed welders he went through the boilermaker and pipewelder files, which contained among other applications a number of the applications of the discriminatees in this case, and further that he called all the applicants in the files to include those whose applications bore the language ''voluntary union organizer.'' I don't believe him. There was no evidence to corroborate this part of his testimony (such as notes on the applications) and no evidence that any discriminatee ever received such a call.

age but rehired for the fall outage. Gary Harper flunked the tube weld test but was given a second test, passed it, and was hired. Joe Poehlin was given the easier plate weld test rather than the more difficult tube weld test and was hired.

Respondent's union animus is also demonstrated by its treatment of David Scott Bolen. In the first instance he was hired after taking the plate weld test, which is the easier of the welding tests, after he said he wasn't good enough to pass the tube weld test. Supervisor Robert Wollard told Bolen that an employee would be disciplined and discharged if he refused to cross a picket line, and, lastly, Bolen was effectively discharged when he honored a picket line.

Respondent's union animus is also demonstrated by its treatment of Edward L. DeWitt. DeWitt's application was submitted in March 1990 through the Kentucky job service in Owensboro. DeWitt's application reflected that he was a voluntary union organizer and a member of Pipefitters Local 633. It reflected, also, that he had previously been employed by Respondent. Two things are interesting (1) although Respondent claims it sent mailgrams to former employees of Respondent living within 200 miles of Henderson, Kentucky, as DeWitt did, DeWitt was never sent a mailgram, and (2) although Respondent claimed it gave priority in staffing the project to former employees of Respondent DeWitt was never offered a job yet Respondent hired approximately 84 employees during the spring outages who had not previously worked for Respondent and it hired 70 employees for the fall outages who had never previously worked for Respondent. At the hearing before me Respondent claims that DeWitt was not hired in part because his application was not complete, i.e., he didn't list all former employees. However, a number of people were hired whose applications were similarly incomplete, e.g., Christian Volz, Clayton Rogers, George Anderson, and Wayne Eckles. It is clear by at least a preponderance of the evidence that DeWitt was discriminated against by Respondent because his application reflected that he was a voluntary union organizer and a member of a union interested in organizing Respondent's work force.

The last evidence of union animus is the manner in which Respondent handled the 11 applications of boilermakers mailed to it and received by Respondent on May 17, 1990. Respondent claims it did not consider these applicants for employment because their applications were received in bulk and Respondent's policy is not to accept bulk applications. None of these 11 applicants had their applications returned to them by Respondent with a letter or notation to the effect that bulk applications are not accepted. Respondent also accepted bulk applications when it wants to and when it is in Respondent's interest not to accept bulk applications it cites a policy against the acceptance of bulk applications. Ron Russell clearly solicited applications on behalf of Respondent at Sebree in May 1990. Since he did not collect the applications on the spot, it was not unreasonable to believe they should be mailed to Respondent as they were. Respondent merely received the 11 applications and ignored them. Needless to say all 11 applications reflected the applicants membership in Boilermakers Local 40 and that the applicant was a voluntary union organizer.

Respondent's applications contain printed language that the application is valid for 60 days from application date. Respondent argues that in light of that the applications of the 54 alleged discriminatees submitted in March and May 1990 would not have been valid applicants for the fall outages beginning in September 1990. However, Human Resources Manager Jim Boyd prepared the staffing memo for the Wilson outage in Centertown and the staffing memo provided that the applications should be kept in a file to be used for future staffing requirements and indeed Respondent's supervisor, Jan Linscome testified he used applications filed in the spring for staffing purposes for the fall outages.[4] Linscome also testified that there was turnover in all crafts during the outages.

REMEDY

The remedy for the threat to discipline and discharge an employee if he refuses to cross a picket line should be a cease and desist order and the posting of a notice. The remedy for the unlawful discharge of David Scott Bolen should be, in addition to a cease-and-desist order and the posting of an appropriate notice, an order to reinstate Bolen and an order to make him whole. The remedy for the unlawful failure and refusal to hire the 54 applicants for employment should include, in addition to a cease-and-desist order and the posting of an appropriate notice, an order to hire these 54 employees and make them whole.

Obviously the Big Rivers project is over as far as Respondent is concerned since Big Rivers, rightly or wrongly, terminated its contract with Respondent because of Big Rivers' view that Respondent's job performance was poor. Respondent is a major employer which undertakes projects throughout the United States. Bearing in mind that Respondent, after Big Rivers terminated its contract, went on to other projects in this part of the country and elsewhere and that employees in the construction industry move from jobsite to jobsite and further bearing in mind Respondent's practice of giving priority in hiring to employees who have worked for it in the past the right of the aggrieved 55 discriminatees (which includes Bolen) to reinstatement and backpay should extend beyond the termination of Respondent's contract with Big Rivers in the fall of 1990. See *Dean General Contractors*, 285 NLRB 573 (1987).

CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent violated Section 8(a)(1) of the Act when it threatened an employee with discipline and discharge if he refused to cross a picket line.

4. Respondent violated Section 8(a)(1) and (3) of the Act when it discharged David Scott Bolen because he refused to cross a picket line.

5. Respondent violated Section 8(a)(1) and (3) of the Act when it failed and refused to offer positions to any of 54 discriminatees listed below in paragraph 2 of my recommended Order because they engaged in the protected concerted activity of letting Respondent know they were voluntary union organizers.

[4] Christopher Caldwell, Ralph Roach, Ricky Payton, and Chris Arnold were hired by Respondent for the fall outages based on their applications for employment during the spring outages. They had not been hired in the spring.

6. The above unfair labor practices affect commerce within the meaning of Section 2(2), (6), and (7) of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[5]

ORDER

The Respondent, Fluor Daniel, Inc., Greenville, South Carolina, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Threatening to discharge and discipline employees because they refuse to cross a picket line.

(b) Discharging employees because they refuse to cross a picket line.

(c) Discouraging employees from engaging in activities on behalf of a labor organization by refusing to hire job applicants because they are members or supporters of unions, or because they indicate on their employment applications that they are voluntary union organizers.

(d) In any like or related manner interfering with, restraining, or coercing its employees or applicants for employment in the exercise of their Section 7 rights protected by the Act.

2. Take the following affirmative action deemed necessary to effectuate the purposes and policies of the Act.

(a) Offer David Scott Bolen full reinstatement to his former position and offer to the below listed individuals employment in positions for which they applied or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority and other rights and privileges.

Pipefitters Local 633
Jeffrey Campbell
Ernest Carter, Jr.
Donald S. Cole
Wallace H. Cook, Jr.
Bobby D. Crabtree
Hubert L. Crabtree
Edward L. DeWitt
George E. Hayes
Jerry L. Hurm
Joseph B. Hobbs
Patrick R. O'Bryan
George T. Saltsman
Anthony O. Taylor
James L. Trainer
Thomas G. Turner
Mark Wagner
Richard A. Wall
Charles H. Yeiser
John C. Zaremba

Boilermakers Local 40
James Cauley
John H. Coons
Steven S. Coons
G. Dennis Kulmer

Iron Workers Local 103
Ralph S. Angel
Herschel L. Bowlds, Jr.
Richard B. Bowlds
Willis G. Beasley
Ricky Brown
Willis C. Dean, Jr.
Larry Elliott
Mark A. Farmer
James C. Gentry
Ronald K. Gower
Donald L. Hurst
Gregory Parks

Laborers Local 1392
Thomas R. Ball
Ronnie E. Burk, Jr.
James M. Jones

Boilermakers Local 40
Thomas Armstrong
Jimmy D. Blandford
Steve Boggess
Martin W. Drake
Jeffrey Everly
Russell Gregory
Michael Hardin
David K. James
Brett A. Maupin
Todd Robinson
Frank Trovato

Boilermakers Local 40
Ernest T. Coons
James D. Pierce

Pipefitters Local 633
Russell W. Bell
James G. Phillips
Roger D. Sims

(b) Make the individuals listed in paragraph 2(a) and above whole for any loss of pay and other benefits suffered by them. Backpay to be computed in accordance with *F. W. Woolworth Co*., 90 NLRB 289 (1950), with interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987) (see generally *Isis Plumbing Co*., 138 NLRB 716 (1962)).

(c) Expunge from it files any reference to the discharge of David Scott Bolen and the unlawful refusal to hire the employees listed above and notify them in writing that this has been done and that evidence of this unlawful conduct will not be used as a basis for future personnel action against them.

(d) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(e) Post at all of its jobsites within a 75-mile radius of Owensboro, Kentucky, copies of the attached noticed marked ''Appendix.''[6] Copies of this notice on forms provided by the Regional Director for Region 26, after being duly signed by Respondent's authorized representative, shall be posted immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(f) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[5] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[6] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize
To form, join, or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT threaten to discharge and discipline employees because they refuse to cross a picket line.

WE WILL NOT discharge employees because they refuse to cross a picket line.

WE WILL NOT discourage employees from engaging in activities on behalf of a labor organization by refusing to hire job applicants because they are members or supporters of unions, or because they indicate on their employment applications that they are voluntary union organizers.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed to them under Section 7 of the Act.

WE WILL offer David Scott Bolen immediate and full reinstatement to his former position if that position no longer exists, to a substantially equivalent position, without prejudice to his seniority and other rights and privileges and WE WILL offer to the below listed applicants employment in positions for which they applied or, if nonexistent, to substantially equivalent positions:

Pipefitters Local 633
Jeffrey Campbell
Ernest Carter, Jr.
Donald S. Cole
Wallace H. Cook, Jr.
Bobby D. Crabtree
Hubert L. Crabtree
Edward L. DeWitt
George E. Hayes
Jerry L. Hurm
Joseph B. Hobbs

Iron Workers Local 103
Ralph S. Angel
Herschel L. Bowlds, Jr.
Richard B. Bowlds
Willis G. Beasley
Ricky Brown
Willis C. Dean, Jr.
Larry Elliott
Mark A. Farmer
James C. Gentry
Ronald K. Gower
Patrick R. O'Bryan
George T. Saltsman
Anthony O. Taylor
James L. Trainer
Thomas G. Turner
Mark Wagner
Richard A. Wall
Charles H. Yeiser
John C. Zaremba
Donald L. Hurst
Gregory Parks

Boilermakers Local 40
James Cauley
John H. Coons
Steven S. Coons
G. Dennis Kulmer

Boilermakers Local 40
Ernest T. Coons
James D. Pierce

Pipefitters Local 633
Russell W. Bell
James G. Phillips
Roger D. Sims

Laborers Local 1392
Thomas R. Ball
Ronnie E. Burk, Jr.
James M. Jones

Boilermakers Local 40
Thomas Armstrong
Jimmy D. Blandford
Steve Boggess
Martin W. Drake
Jeffrey Everly
Russell Gregory
Michael Hardin
David K. James
Brett A. Maupin
Todd Robinson
Frank Trovato

WE WILL expunge from our files any reference to the discharge of David Scott Bolen and any reference to the unlawful refusal to hire the applicants listed above and notify them in writing that this has been done and that evidence of this unlawful conduct will not be used as a basis for future personnel action against them.

WE WILL make the discriminatees whole for any loss of pay or benefits they suffered because of the discriminations against them, plus interest.

FLUOR DANIEL, INC.